

IN THE NEBRASKA COURT OF APPEALS

MEMORANDUM OPINION AND JUDGMENT ON APPEAL

HOUSER V. HOUSER

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ANGIE K. HOUSER, APPELLANT,
V.
BRUCE R. HOUSER, APPELLEE.

Filed March 30, 2010. No. A-09-869.

Appeal from the District Court for Phelps County: STEPHEN R. ILLINGWORTH, Judge.
Affirmed in part, and in part reversed and remanded with directions.

Nicole M. Mailahn, of Jacobsen, Orr, Nelson, Lindstrom & Holbrook, P.C., L.L.O., for
appellant.

Bruce R. Houser, pro se.

INBODY, Chief Judge, and SIEVERS and CASSEL, Judges.

CASSEL, Judge.

INTRODUCTION

Angie K. Houser appeals from an order modifying a dissolution decree and holding her in contempt. We conclude that the district court did not impose an appealable sanction for contempt, as the abatement of child support and award of attorney fees constituted relief upon modification and the only other sanction was merely a warning of possible future consequences. Because the circumstances were not sufficiently severe to warrant abatement of child support, we reverse the abatement. We find no abuse of discretion in the court's refusal to decrease visitation, reallocation of dependency tax exemptions, and award of attorney fees, and we therefore affirm those portions of the court's order.

BACKGROUND

While Angie and Bruce R. Houser were married, they had three children together. The parties dissolved their marriage pursuant to a dissolution decree entered on August 9, 2001. The

decree granted Angie custody of all three minor children “subject to reasonable rights of visitation by [Bruce], including alternating weekends, alternating holidays, and additional time to be arranged in the summer.” In 2004, Bruce filed an “Amended Application to Modify Decree,” in which he requested custody of the eldest child and “liberal and specific scheduled visitation.” The court granted Bruce temporary custody of the eldest child. The order modified visitation so that all three children would be in the custody of the same parent on weekends and holidays and specified that Bruce would have visitation on the weekends he was not working. We digress to note that the child support portion of the dissolution decree was modified on numerous occasions, the last of which was in 2006.

Bruce did not receive visitation with the two youngest children to the extent provided in the 2004 modification order. For most of 2006, Bruce did not have visitation with the minor children in Angie’s care. On January 29, 2007, Bruce filed a “Motion for Order to Show Cause,” in which he requested that the court find Angie in contempt of the court’s visitation order. By this time, the eldest child had reached the age of majority. The court found that Angie was not in contempt of its visitation order and entered an order which arranged a total of four visitations in March and April, each of which was to last 5 hours. The court also ordered that the parties return for an additional hearing after the visitations occurred. The court additionally advised Bruce to enroll in an anger management course, which he completed.

Bruce attended all four of the visitations arranged by the court. According to Bruce, the first two visitations were fine, but the second two were not as good because the children “had their minds set up that they were going to make it miserable.” After the subsequent hearing, the court ordered “family counseling between [Bruce] and his daughter [and] advised the parties after the counseling takes place the Court would hold [a] further hearing upon motion and notice by either side.”

Bruce then arranged counseling with Julie Moore, who has a master’s degree in community counseling. Bruce attended a total of 10 sessions with Moore, the first of which occurred on May 10, 2007. The purpose of the counseling was to help Bruce establish a relationship with his two younger children. Two of the sessions included the minor children, the second of which became “pretty heated.” Two sessions, including the last one, were attended by Angie. Moore then recommended that the children not be involved in the counseling until after more individual work had been completed. Moore observed that Bruce was suspect of Angie’s motives and would, at times, become angry and defensive. Moore was concerned about Bruce’s ability to listen and interact with his children in a positive way. Moore encouraged Bruce to view issues from the children’s perspective, not to discuss issues related to Angie when talking with the children, and to listen to the children.

After the last counseling session, which occurred on September 22, 2007, Bruce did not resume regular visitation with the children. Moore believed at that point Bruce would call to schedule another session, still needed additional counseling sessions to build a positive relationship with the children, and had not yet reached a point where he could resume counseling with the children. However, Moore believed that the children were “healthy enough” to have visitation with Bruce.

On December 29, 2008, Bruce filed a “Motion to Enforce Parenting Time,” in which he alleged that he had been denied visitation. On January 7, 2009, Angie filed a “Motion to Modify”

child visitation and support. On January 29, Bruce filed a "Counter Complaint to Modify," in which he requested custody of the two minor children.

In 2009, Bruce exercised visitation with the minor children twice in February and once in March. One of the visitations was not for the entire weekend due to the children's activities. The older of the two minor children did not attend the March visitation because she was working.

On February 24 and March 10, 2009, the district court heard Bruce's motion to enforce visitation and both parties' motions to modify. At the time of trial, one child was 17 years old and the other was 11 years old. At trial, Bruce testified that he had previously attempted to telephone Angie three times a month regarding the children. He stated that he stopped calling because Angie would refer to him as "Bruce" to the children and he could sometimes hear the children in the background stating that they did not want to speak with him. Bruce explained that he had spent Thanksgiving with the children in 2006 and did not see his children until the court-ordered visitation in the spring of 2007. Bruce stated that after Thanksgiving, when he requested visitation, Angie would state that the children did not want to see him and that she would not force them to see him. However, Bruce admitted that in the months before trial, he did not return telephone messages from Angie regarding visitation. Bruce stated that he received his children's report cards, attended many of their activities, and sent them cards and letters.

At trial, Angie testified that from February 2006 to February 2007, Bruce would only speak with her and the two younger children via telephone. At times, Bruce would leave telephone messages that included expletives. Angie stated that she did not have visitation with the eldest child during this period and only saw him on one occasion. Angie explained that she was concerned about the court-ordered visitations which occurred in 2007 because the children were upset when they returned home. Additionally, Angie testified that she did not speak with Bruce about visitation after Bruce's last counseling session with Moore. She stated that Bruce called her to talk to the children, but that they never had any specific discussions about setting up visitation and she believed that they were supposed to have additional family counseling before visitation resumed. Angie testified that after a December court hearing, she attempted to speak with Bruce every week for a month about arranging visitation and was informed that Bruce's attorney told him not to answer her calls. Angie also expressed that she was concerned about Bruce because of his problems with anger, including an incident at a parent-teacher conference in which Bruce was angry that both parents were scheduled to attend the youngest child's conference at the same time. She also expressed concern that the eldest child, while in Bruce's custody, failed school, was jailed, and went to group homes and that Bruce had expressed that "all kids go through drugs and alcohol" and that "furthering your education is a waste of time and stupid." Angie testified that she tells the two younger children to attend visitation but does not make them attend and that Bruce has stated he would not force visitation.

Angie called the children to testify, but the court did not allow them to do so. Angie then made an offer of proof regarding what the children would have stated. In general, they would have testified that they would prefer not to have visitation with Bruce. They would have also testified that they did not enjoy the spring 2007 visitations and that during these visitations, Bruce allowed the youngest minor child to drive in a park one time and on another occasion Bruce was angry with them and drove erratically. The children would have testified that they believed Bruce was not truthful, that Bruce used vulgar terms at a parent-teacher conference, and

that they are concerned about Bruce's being angry because Bruce hits himself or the wall when he is angry. They also would have testified that Bruce uses inappropriate terms in describing Angie and has said that drugs and alcohol are a part of life. In addition, they would have stated that they were confused because Bruce said they did not have to go on visits, but that the court is making them, and that Bruce did not provide them with adequate beds during visitation and fed them out-to-eat food. The oldest minor child would have testified that during visitations she helped care for the younger child.

In the district court's order dated July 29, 2009, the court declined to modify custody and visitation. The court found Angie to be in contempt of court for failing to follow the court order on visitation, stated that Angie could purge the contempt by following the previous visitation schedule, and stated that if Angie did "not deliver the children for visitation the Court upon Motion, Notice, and Hearing may impose a jail sentence for the number of days the visitation was denied." The court "suspended" child support for a period of 3 years, from August 1, 2009 to July 31, 2012. The court's rationale for suspending support was that Bruce was only allowed to see the children seven times in the previous 3 years. The court awarded Bruce \$3,000 in attorney fees and ordered that Angie claim the youngest child for income tax purposes from 2008 to 2011 and that Bruce claim the youngest child beginning in 2012.

Angie timely appeals.

ASSIGNMENTS OF ERROR

Angie assigns, as restated, that the district court erred in (1) finding her to be in contempt of the visitation order, (2) ordering sanctions against her which included the abatement of child support and \$3,000 in attorney fees, (3) failing to modify child support, (4) finding that Bruce is entitled to claim the youngest child for tax purposes from 2012 until the child reaches the age of majority, (5) not considering the testimony of the minor children or a counselor in determining whether to modify visitation, and (6) not modifying the visitation schedule.

STANDARD OF REVIEW

An appellate court, reviewing a final judgment or order in a contempt proceeding, reviews for errors appearing on the record. *Schwartz v. Schwartz*, 275 Neb. 492, 747 N.W.2d 400 (2008). When reviewing a judgment for errors appearing on the record, the inquiry is whether the decision conforms to the law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable. *Id.*

Child custody determinations, and visitation determinations, are matters initially entrusted to the discretion of the trial court, and although reviewed de novo on the record, the trial court's determination will normally be affirmed absent an abuse of discretion. *Farnsworth v. Farnsworth*, 276 Neb. 653, 756 N.W.2d 522 (2008). An appellate court reviews proceedings for modification of child support de novo on the record and will affirm the judgment of the trial court absent an abuse of discretion. *Rutherford v. Rutherford*, 277 Neb. 301, 761 N.W.2d 922 (2009). A judicial abuse of discretion exists when reasons or rulings of a trial judge are clearly untenable, unfairly depriving a litigant of a substantial right and denying just results in matters submitted for disposition. *Id.*

ANALYSIS

Finding of Contempt.

For three reasons, we reject Angie's argument that the district court erred in finding her to be in contempt of court for failure to provide Bruce with visitation. As we explain in more detail below, the order does not impose a contempt sanction which we are able to review.

The first reason for rejecting Angie's argument concerning the contempt proceeding is based upon our understanding that the abatement of child support does not constitute a sanction for contempt. This reason, in turn, is supported on three grounds. First, the structure of the court's order demonstrates that the abatement constituted a modification of the judgment rather than a finding of contempt. Second, the Nebraska Supreme Court has consistently treated such orders as modifications of the judgment and not as sanctions for contempt. Third, the legal character of an abatement of support differs from a sanction for contempt.

The structure of the order placed the abatement in the same paragraph as the denial of Angie's motion to modify child support and not in the paragraph adjudicating contempt. The district court's order stated as follows regarding child support:

2. The Court Overrules [Angie's] Motion to Modify Child Support. [Bruce] was allowed to see the children seven times in three years. The Court therefore suspends child support for a period of three years from August 1, 2009[,] until July 31, 2012. Beginning August 1, 2012[,] child support shall be reinstated based on the parties' incomes. The Court finds there is no showing the children are in need in entering this Order. See [*Welch v. Welch*, 246 Neb. 435, 519 N.W.2d 262 (1994); *McGee v. McGee*, 190 Neb. 415, 209 N.W.2d 339 (1973)]. The Court Overrules [Angie's] Motion to Modify the Visitation Schedule.

In the next paragraph, the district court found Angie to be in contempt "for failing to abide by the Court Order on visitation." In this paragraph, the order then provided that "[i]f the mother does not deliver the children for visitation the Court upon Motion, Notice, and Hearing may impose a jail sentence for the number of days the visitation was denied." The district court did not abate child support based on its finding of contempt--both the finding of contempt and the threatened sanction were contained in the later paragraph. Thus, the structure of the order places the abatement of child support in the relief addressing modification of the judgment.

In the cases the district court cited regarding the abatement of child support--*Welch v. Welch*, *supra*, and *McGee v. McGee*, *supra*, the Nebraska Supreme Court reviewed the abatement of child support as the modification of child support and not as a sanction for civil or criminal contempt. The standard of review in an action to modify child support (de novo on the record for abuse of discretion) is very different from the standard of review in a contempt proceeding (error appearing on the record). Thus, the abatement of support is properly characterized as a modification of the judgment rather than as a sanction for contempt.

The abatement of child support, as it was imposed in the instant case, does not fit the definition of a contempt sanction, whether the contempt is civil or criminal in nature. Turning first to civil contempt, abatement of child support does not constitute a coercive sanction. When a coercive sanction is imposed, the contemnor holds the keys to his or her jail cell because the sentence is conditioned upon the contemnor's continued noncompliance with the court's order.

City of Beatrice v. Meints, 12 Neb. App. 276, 671 N.W.2d 243 (2003). This is not true where the court enters a final order abating child support. The order is not conditional, is made regardless of the party's future behavior, and is only subject to later modification where a party can show a material change in circumstances. Similarly, abatement of child support cannot be characterized as a punitive sanction for criminal contempt. The punitive sanction is much like the sentence in a criminal case, in that it is absolute and not subject to mitigation if the contemner alters his future conduct toward the court. *In re Contempt of Liles*, 216 Neb. 531, 344 N.W.2d 626 (1984). This is not true of an order modifying child support because the party's future behavior can constitute grounds for modification of the abatement and a child support order is always subject to modification where there has been a material change of circumstances. See *Gress v. Gress*, 274 Neb. 686, 743 N.W.2d 67 (2007). Thus, we conclude the court's abatement of child support was a form of modification of the decree and not a sanction for contempt.

The second reason Angie's argument fails is that the attorney fee award she characterizes as a contempt sanction is properly treated as incidental relief upon the modification of the decree. Once again, the structure of the order supports such treatment. The award was set forth as a separate item of relief in the order and not as part of the paragraph purporting to impose a sanction for contempt. Further, in the instant case, the award of attorney fees unrelated to the finding of contempt is supported by the case law. In the district court, Bruce prevailed on many of the issues concerning modification. Customarily in dissolution cases, attorney fees and costs are awarded only to prevailing parties or assessed against those who file frivolous suits. *Noonan v. Noonan*, 261 Neb. 552, 624 N.W.2d 314 (2001). In an action for modification of a marital dissolution decree, the award of attorney fees is discretionary with the trial court, is reviewed de novo on the record, and will be affirmed in the absence of an abuse of discretion. *Finney v. Finney*, 273 Neb. 436, 730 N.W.2d 351 (2007). The award of attorney fees depends on multiple factors that include the nature of the case, the services performed and results obtained, the earning capacity of the parties, the length of time required for preparation and presentation of the case, customary charges of the bar, and the general equities of the case. *Id.* While the services provided by Bruce's attorney are difficult to precisely separate between the modification action and the contempt proceeding, the attorney's affidavit substantiates the fact that Bruce incurred in excess of \$3,000 in legal fees related to the litigation of the modification requests. Because the district court's award of attorney fees is not an abuse of discretion under the rules governing attorney fees in proceedings regarding the modification of a dissolution decree, we reject Angie's characterization of the award as a sanction for contempt.

We now turn to the final reason we reject Angie's argument concerning the adjudication for contempt--the district court imposed no sanction against her and merely warned her of the possible consequences for future willful failure to obey the visitation order. We have already explained that the abatement of child support and the award of attorney fees relate to the modification action and not to the contempt proceeding. This leaves only the court's warning of consequences for a future violation. However, the consequences are contingent on a future court proceeding regarding contempt. The finding of contempt alone, without a noncontingent order of sanction, is not appealable. *Meisinger v. Meisinger*, 230 Neb. 37, 429 N.W.2d 721 (1988). Because the warning does not constitute a sanction for contempt, the order contains only a finding of contempt, and there is nothing for us to review on the adjudication of contempt.

Modification of Child Support.

Angie assigns that the court erred in failing to increase Bruce's child support obligation. The district court expressly denied Angie's request to modify child support and completely abated child support based on its determination that Angie had not provided Bruce with sufficient visitation. We conclude that the district court abused its discretion in doing so, because Angie's actions did not rise to the level which is required for the court to abate child support and because the court employed a flawed premise.

While abatement of child support may be a proper sanction under certain conditions, it should only be used as a last resort. The abatement of child support may be used to enforce a visitation order where the custodial parent prevents the noncustodial parent from exercising visitation and the children are not in need. See *Welch v. Welch*, 246 Neb. 435, 519 N.W.2d 262 (1994). Child support should only be abated as "'a last resort or where it is apparent that to do so affords the only remedy that can be reasonably expected to fit the mischief.'" *Id.* at 446, 519 N.W.2d at 271, quoting *Biesecker v. Biesecker*, 190 Neb. 808, 212 N.W.2d 576 (1973).

The reported cases where the Nebraska Supreme Court has affirmed the abatement of the payment of child support are under circumstances more severe than those present in the instant case. For example, in *Welch v. Welch*, *supra*, the court abated support after the father had not seen the children for approximately 3 years, had not spoken with the children on the telephone for more than a year, and did not have the children's address. Afterward, the father had one visitation and attempted to exercise visitation on two additional occasions. The record did not indicate whether these attempts were successful. Subsequently, when the father made a motion to determine sums due, the court decided not to reinstate child support based on its determination that the mother did not follow visitation orders. In *McGee v. McGee*, 190 Neb. 415, 209 N.W.2d 339 (1973), the Nebraska Supreme Court ordered the suspension of the father's child support payments where the mother removed the children from the state without the father's consent and the father no longer had visitation.

In the instant case, Angie has not prevented visitation to the same extent. She has not moved out of state, concealed her location from Bruce, or absolutely refused to permit visitation. In addition, the abatement of child support has not been necessary to secure visitation. Court proceedings or impending court proceedings have sufficed in the past. When the court ordered Angie to provide four specific visitations in 2007, she did so. Additionally, in the months prior to trial, Angie attempted to arrange visitation with Bruce with limited success and then ultimately succeeded in arranging weekend visitation. Three such visitations occurred prior to the last day of trial.

Second, the district court based its decision to abate child support for 3 years on a faulty premise. The abatement of child support for 3 years was based on a determination that Bruce "was allowed to see the children seven times in three years." However, on April 2, 2007--during the middle of this 3-year period--the court determined that Angie was not in contempt of the visitation order. It makes little sense that the court is now imposing relief which is to be used only as a last resort for behavior which, in part, it had previously determined was not a violation of court order.

Therefore, we reverse that portion of the district court's order which abated Bruce's child support obligation for 3 years and remand this matter to the district court with directions to calculate child support and modify its previous child support order if it is appropriate to do so.

Tax Exemptions.

Angie asserts that the district court erred in modifying the dissolution decree's allocation of tax exemptions. The decree originally provided that when there were three minor children, Angie would claim two exemptions in even years and one exemption in odd years and that Bruce would claim one exemption in even years and two exemptions in odd years. The decree provided that when there were two minor children, each parent would claim one child, and that when there was only minor child Bruce would claim the exemption in odd years and Angie would claim the exemption in even years. The decree required that Angie "execute whatever documents may be required by the Internal Revenue Service to effectuate said use and deliver said document[s] to [Bruce] by February 10th of that taxable year."

At trial, Bruce admitted that he claimed the exemptions for all three children in 2005 and 2007. Bruce testified that he claimed all of the exemptions because Angie failed to provide him with documentation regarding the dependents she had claimed. Angie testified that she was unable to claim any tax exemptions from 2005 to 2007 because Bruce claimed the exemptions for all the children for those years. Both parties claimed the same child on their 2008 tax forms.

The modification order directed Bruce to amend his 2008 tax form so Angie could claim the child she had already claimed, directed Angie to claim both tax exemptions for tax years 2009 to 2011, and directed Bruce to claim one tax exemption for the youngest child from 2012 until the child reaches the age of majority.

A tax dependency exemption is nearly identical in nature to an award of child support or alimony and is thus capable of being modified as an order of support. *Hall v. Hall*, 238 Neb. 686, 472 Neb. 217 (1991). As in the cases of alimony and child support, the allocation of a tax exemption will be modified only upon a showing of a material change in circumstances. *Id.* The district court did not make a specific finding as to the material change of circumstances that justified this modification. However, from the nature of the modification--which relieves the parties from exchanging information regarding exemptions--we gather that the material change discerned by the court was the parties' inability to coordinate the proper claiming of the exemptions.

The district court's order was effective in remedying this problem. By our calculations, the order will result in Angie's and Bruce's receiving an equal total of exemptions in the future. Although the order does not remedy the problem that in the past Bruce admittedly claimed excessive exemptions, we do not believe that this amounts to an abuse of discretion. It appears that the parties' combative behavior and lack of communication led to this and many other departures from the provisions of the dissolution decree in the past few years. We therefore affirm the court's order allocating income tax exemptions.

Visitation.

Angie asserts that the district court erred in denying her request to modify visitation but has not specified the nature of the modification she desired. She additionally argues that the district court erred in failing to consider Moore's testimony and the minor children's testimony

in deciding whether to modify visitation. The court did not specifically exclude Moore's testimony from its consideration in determining Angie's motion to modify. Instead, it appears that the trial court accorded limited weight to at least a portion of Moore's testimony, which does not constitute a reversible error. In an equitable action where the evidence is in conflict, after hearing and observing witnesses, a trial court can choose to accept one version of the facts instead of another. See *Regency Homes Assn. v. Schrier*, 277 Neb. 5, 759 N.W.2d 484 (2009). This is precisely what the district court did, and it is not an abuse of discretion.

However, the district court specifically excluded the children's testimony from the evidentiary record and did not consider it in determining whether to modify visitation. The Nebraska Supreme Court has held that in determining visitation, the trial court may consider "when appropriate, the wishes of the child." *Fine v. Fine*, 261 Neb. 836, 843, 626 N.W.2d 526, 532 (2001).

Even if we assume without deciding that the children should have been allowed to testify regarding their preferences, we would still conclude that the district court did not abuse its discretion in denying Angie's request to modify visitation in light of the offer of proof Angie made regarding the children's testimony.

We now turn to the requirements for the modification of a dissolution decree. Visitation rights established by a marital dissolution decree may be modified upon a showing of a material change of circumstances affecting the best interests of the children. *Fine v. Fine*, *supra*. Previously, the "best interests" standard was governed by Neb. Rev. Stat. § 42-364(2) (Reissue 2004). Although § 42-364 has been amended by the Legislature, we find no indication that the contours of the "best interests" standard have been changed. Pursuant to 2007 Neb. Laws, L.B. 554, § 4, Neb. Rev. Stat. § 43-2923 (Reissue 2008) now specifies the "requirements" for the best interests of a minor child. Pursuant to § 43-2923, as is pertinent to the instant case, the child's best interests require as follows:

- (1) A parenting arrangement and parenting plan or other court-ordered arrangement which provides for a child's safety, emotional growth, health, stability, and physical care and regular and continuous school attendance and progress for school-age children;

- (2) When a preponderance of the evidence indicates domestic intimate partner abuse, a parenting and visitation arrangement that provides for the safety of a victim parent;

- (3) That the child's families and those serving in parenting roles remain appropriately active and involved in parenting with safe, appropriate, continuing quality contact between children and their families when they have shown the ability to act in the best interests of the child and have shared in the responsibilities of raising the child;

- (4) That even when parents have voluntarily negotiated or mutually mediated and agreed upon a parenting plan, the court shall determine whether it is in the best interests of the child for parents to maintain continued communications with each other and to make joint decisions in performing parenting functions as are necessary for the care and healthy development of the child. If the court rejects a parenting plan, the court shall provide written findings as to why the parenting plan is not in the best interests of the child[.]

We conclude that the statutory changes have not substantively changed what a district court may consider when determining a minor child's best interests. Drawing much the same conclusion, the Nebraska Supreme Court has stated that a commonsense reading of the revised version of § 42-364, as well as § 43-2923, indicates that the district court still has discretion in determining what the best interests of the child are. *Kamal v. Imroz*, 277 Neb. 116, 759 N.W.2d 914 (2009).

In the instant case, the primary material change in circumstances is that Bruce has not been able to exercise visitation pursuant to the dissolution decree as previously modified. The fact that Bruce has not seen his children very often has caused his relationship with the children to deteriorate. This has resulted in the children's negative assessment of Bruce in spite of the fact that Bruce desires and has tried to develop a positive relationship with the children. We do not view the custodial parent's interference in the noncustodial parent's visitation as a basis which supports a decrease in visitation. In addition, Angie has not adduced evidence that there has been a material change in circumstances for the worse related to Bruce's treatment of the children such that the children are at a substantial risk of harm during visitation with Bruce.

Further, the children's best interests weigh in favor of continuing Bruce's visitation. First, pursuant to § 43-2923(3), the best interests of a child require that "those serving in parenting roles remain appropriately active and involved in parenting . . . when they have shown the ability to act in the best interests of the child and have shared in the responsibilities of raising the child." Bruce has been supportive of the children and has actively parented the children in the past. Second, it is only under extreme circumstances that a parent's visitation is limited due to the children's best interests. Such circumstances have included the noncustodial parent's abduction of the child resulting in posttraumatic stress disorder where the child had flashbacks of abusive events, see *Poll v. Poll*, 256 Neb. 46, 588 N.W.2d 583 (1999) (supervised visitation ordered), *overruled on other grounds*, *Gibilisco v. Gibilisco*, 263 Neb. 27, 637 N.W.2d 898 (2002); the noncustodial parent's incarceration for attempting to have the custodial parent killed, see *Conn v. Conn*, 15 Neb. App. 77, 722 N.W.2d 507 (2006) (visitation suspended); and the custodial parent's difficulty in obtaining return of the child from the noncustodial parent after visitation, which had a traumatic effect on child, see *Murdoch v. Murdoch*, 206 Neb. 327, 292 N.W.2d 795 (1980) (visitation suspended). Nothing in the case before us rises to this level. We find no abuse of discretion in the district court's denial of Angie's request to modify visitation. We therefore affirm this portion of the district court's order.

CONCLUSION

Because the district court's abatement of Bruce's child support obligation constituted an abuse of discretion, we reverse the abatement and remand the matter to the district court for the calculation of child support and, if appropriate, the entry of a modified child support order. Finding no additional errors, we affirm the remainder of the district court's order.

AFFIRMED IN PART, AND IN PART REVERSED
AND REMANDED WITH DIRECTIONS.